

## **PROCEEDINGS OF THE HISTORIC CONSERVATION BOARD**

**MONDAY, SEPTEMBER 8, 2003**

**3:00 P.M., J. MARTIN GRIESEL ROOM, CENTENNIAL PLAZA II**

The Historic Conservation Board met at 3:00 P.M., in the J. Martin Griesel Room, Centennial Plaza II, with members Kirk, Kreider, Raser, Senhauser, Spraul-Schmidt and Sullebarger, present. Absent: Bloomfield and Wallace

### **MINUTES**

The minutes of the June 9, 2003 meeting were unanimously approved (motion by Sullebarger, second by Raser). The minutes of the August 25, 2003 meeting were also unanimously approved (motion by Sullebarger, second by Spraul-Schmidt).

### **CERTIFICATE OF APPROPRIATENESS, 203 WEST MCMICKEN AVENUE, OVER-THE-RHINE HISTORIC DISTRICT**

Staff member Caroline Kellam presented the staff report on this request for a Certificate of Appropriateness to demolish a non-contributing structure at 203 West McMicken Avenue as part of a City Council-approved program, the "Drug House Shutdown Initiative." The program was established in 2003 to eliminate drug houses by demolishing the buildings.

Ms. Kellam explained that when the Over-the-Rhine (North) District was designated in 2001, the building was listed as a contributing building. Since that time, an adjacent building collapsed when undergoing rehabilitation, which caused portions of 203 West McMicken to also collapse. The building has sat vacant for the last few years. The first floor has caved into the basement and most of the structural members are rotted and broken. The structure is not on the list of contributing buildings to the newly established Over-the-Rhine Historic District (which consolidated the two Over-the-Rhine historic districts).

According to the district guidelines, demolition is permitted for a non-contributing building when the demolition will not adversely affect the character of the streetscape or district as determined by the Historic Conservation Board. Staff determined that the building has deteriorated to such a state that it has lost a significant portion of its historic and architectural integrity and no longer contributes to the Over-the-Rhine Historic District.

In reply to Ms. Sullebarger, Ms. Kellam explained that the building was determined to be non-contributing by the consultant who was working on an update of Cincinnati's historic inventory. The inventory for Over-the-Rhine was completed just prior to the consolidation of the two districts. Urban Conservator Forwood added that staff verified the inventory and the list of non-contributing and contributing structures was agreed upon by the Ohio Historic Preservation Office for Section 106 purposes.

### **BOARD ACTION**

The Board voted unanimously (motion by Sullebarger, second by Spraul-Schmidt) to take the following actions:

- 1) Find that the building at 203 West McMicken Avenue is no longer contributing to the Over-the-Rhine Historic District due to its loss of architectural integrity; and
- 2) Approve the demolition of the building at 203 West McMicken Avenue.

**CERTIFICATE OF APPROPRIATENESS, 2300 AUBURN AVENUE, AUBURN AVENUE HISTORIC DISTRICT**

Staff member Caroline Kellam distributed pictures of the detached garages at 2300 Auburn Avenue for which an application for a Certificate of Appropriateness was submitted for demolition. Applicant and owner Joanne Hall was present to respond to questions from the Board. In the interest of time, Ms. Sullebarger suggested that Ms. Kellam forgo the presentation of the staff report since the buildings were obviously non-contributing.

**BOARD ACTION**

The Board voted unanimously (motion by Sullebarger, second by Raser) to take the following actions:

- 1) Find that the detached garages at the rear of 2300 Auburn Avenue along McGregor Street are no longer contributing to the Auburn Avenue Historic District; and
- 2) Approve the demolition of these detached non-contributing garages at the rear of 2300 Auburn Avenue, along McGregor Street.

**ZONING VARIANCE, 1709-1711 VINE STREET & 1706 REPUBLIC STREET, OVER-THE-RHINE HISTORIC DISTRICT**

Staff member Adrienne Cowden presented the staff report on this request for approval of the necessary variances to subdivide the property at 1709-1711 Vine Street and 207 Woodward Street.

The owner/applicant requested that he be able to divide his property into two discrete parcels, each with one building on it. This will allow him to sell the buildings separately. With the subdivision, both of the buildings would have almost entire lot coverage; therefore, the B-4 zoning district necessitates rear yard variances. Ms. Cowden stated that a light and air easement for the building at 1709-1711 Vine Street may be necessary since it has a series of windows on the rear (west) elevation that will be located at the new property line.

Owner/applicant Charles E. Dubose, Jr. was present to respond to questions from the Board.

Mr. Kirk questioned if B&I had been consulted as to building code issues that may result from the subdivision. Ms. Cowden replied that zoning examiners had determined that there may be a need for an air and light easement. Mr. Dubose acknowledged that he had not discussed the project with plan examiners. Mr. Senhauser explained that when a new lot is created, the distance between the windows to the lot line may raise issues of fire separation (in addition to possible light and air issues). The subdivision may therefore be predicated upon complying with the building code, in addition to historic and zoning regulations.

**BOARD ACTION**

The Board voted unanimously (motion by Sullebarger, second by Spraul-Schmidt) to take the following actions:

- 1) Approve the proposal to subdivide parcel 09400080230 into two discrete parcels with the directive that the owner record a light and air easement for the building at 1709-1711 Vine Street, if necessary; and
- 2) Grant the necessary rear yard variances for 1706 Republic Street and 1709-1711 Vine Street, finding that such relief:
  - (a) Is necessary and appropriate in the interest of historic conservation so as not to adversely affect the historic, architectural or aesthetic integrity; and
  - (c) Will not be materially detrimental to the public health, safety and welfare or injurious to the property in the district or vicinity.

**CERTIFICATE OF APPROPRIATENESS, ENVIRONMENTAL QUALITY  
APPROVAL, AND ZONING VARIANCES, 3742 SACHEM AVENUE,  
COLUMBIA-TUSCULUM HISTORIC DISTRICT**

Staff member Adrienne Cowden presented the staff report on this request for a Certificate of Appropriateness and Environmental Quality approval for the construction of a two-family residence on the vacant lot at 3742 Sachem Avenue. The lot is within the Columbia-Tusculum Historic District and Environmental Quality-Hillside District No. 5 (EQ-HS No. 5) and is zoned R-3.

Ms. Cowden reminded the Board that they reviewed a preliminary design for this proposal on August 11, 2003. When the application was reviewed for a Certificate of Appropriateness and EQ-HS approval on August 25, 2003, the Board tabled the application to allow the applicant time to provide additional information.

Ms. Cowden reviewed information provided by the applicant and staff in response to the Board's most recent request. 1) The applicant clarified the stormwater drainage plan. 2) Staff printed a large-scale color aerial map showing 3742 Sachem Avenue in the larger context of the historic district, EQ-HS No. 5, and the Ohio River. Staff prepared a second large-scale map showing topographical contours of the area surrounding 3742 Sachem. 3) The applicant supplied documentation of view corridors including two maps showing the view corridors associated with a 21' and 24' front yard setback and corresponding photographs. 4) The applicant provided staff with a landscape plan and a color rendering of the finished building. Ms. Cowden reviewed proposed construction materials, which had not changed from the preliminary application.

Since the meeting on August 25, 2003, staff received correspondence from two neighborhood residents, Arlene Golembowski (3723 Sachem Avenue) and Garret Walker (3724 Sachem Avenue). They both felt that technical issues including water drainage and setbacks were important; however, they emphasized primary consideration should be given to size and massing and its affect on the historic neighborhood.

Chairman Senhauser informed potential speakers that their previous testimony stands and would enable them to participate in any future proceedings on the issue. Any new testimony would be welcome, with proponents speaking first.

*Charles Schroer, Attorney-at-Law*, representing the applicant, Drackett & Garber, LLC, addressed the Board. Mr. Schroer distributed the following to the Board: comments from Mr. Garber and Mr. Johns addressing drainage, a list of proposed materials, an aerial map and composite of photographs illustrating width and facades of homes on Sachem, a color rendering of the proposed residence, illustrations of view corridors, construction drawings including a topographic map and site plans, and a landscape plan. Mr. Schroer made the following points on behalf of his client:

- In working with the Board and staff, and considering neighborhood concerns, they reduced the size of the building as originally proposed by 19% (6' in width, 5' in length, and 13' in height). In addition, the applicant's lot has 70' of frontage. The front façade is 23' and steps back in width, so a more narrow part of the building is viewed when driving up Sachem. The coverage ratio of the building's footprint to lot size is consistent with other buildings on the street.
- As opposed to newer buildings on Sachem, the applicant is adhering to the footprint permitted under the Zoning Code and is not requesting any variances. The front and rear yard setbacks are consistent with others on Sachem.
- In regard to the hillside guidelines, Mr. Briggs of the City's Department of Community Development and Planning stated that the proposed building will not conflict with the general guidelines. The applicant will submit the appropriate geotechnical reports that B&I requires in the normal course of events.
- The applicant contends that the overall design meets the historic guidelines, being compatible in style with the 19<sup>th</sup> century residences, as well as with the new construction.
- With respect to the view corridors, the applicant is prepared to move the structure an additional 3' to the rear for 24' front yard setback, provided the building could remain the same height and a rear yard variance was granted.

Mr. Garber presented samples of building materials including lapboard siding, simulated slate shingles, and stonework. He stated he would use the smooth face siding and they would stack random sizes of the flat river rock for the front and back retaining walls. He pointed out the color rendering of the finished structure, and stated they would use a Victorian color scheme, with yellow as a primary color, accenting in blue and an additional third color.

In reply to Mr. Senhauser, Mr. Rings confirmed that the photographs taken from the front porch of the adjacent home show Mr. Garber standing at the corner of the proposed building with a 21' setback. Mr. Garber confirmed that they did not submit photographs from two houses up the street (3752 Sachem), but surmised that the residents of the home would barely see the proposed residence with a 21' setback and would not see it at all with a 24' setback. Mr. Senhauser agreed that his assessment was accurate.

*Tim Burke, Attorney-at-Law*, stated he is representing Mr. and Mrs. Stamp, who reside in the house immediately downhill from the proposed residence. Mr. Burke pointed out that while the Stamps are not opposed to development, they are fully aware of how sensitive hillsides can be. Therefore, a critical issue for the Stamps is how the water runoff will be handled. Mr. Burke stated that they had not had the opportunity to review the new information submitted by the applicant regarding drainage.

Mr. Stamp retained Robert Lennertz, of H.C. Nutting Co. who provided a brief report on how water runoff should be handled on the property. (Mr. Burke distributed the report to the Board.) Mr. Burke described how the site is impacted by water runoff and stated that given these current conditions and the topography, there is a critical need to know in advance that water runoff is being dealt with appropriately.

In addition, Mr. Burke suggested strongly that the Board require a geotechnical report as a condition prior to approving the project, since it is clear from the record that there are issues on the site. He noted that it is not unusual for hearing bodies to ask for a geotechnical report prior to approving a project in an EQ district.

Mr. Burke remarked that the staff report is inconsistent in that it makes very clear there remain serious concerns about the scale and massing; however, in the next paragraph recommends approval.

Mr. Burke concluded that he does not believe the Board should approve the plans at this point; however, if they do, they should include as a condition, compliance with the recommendation of H.C. Nutting, as well as require a geotechnical report. At the very least, he stated, a geotechnical report should be required prior to the issuance of a building permit.

*Mr. Vince Stamp*, 3734 Sachem Avenue, contended that the stormwater plan before the Board today was the same plan as submitted at the last hearing and is the same plan that he discussed with Mr. Johns at MSD. At that time, Mr. Johns remarked that the plan may work, but there was not enough detail to be certain.

*Mark Godbey, Attorney-at-Law*, stated he is representing Dan and Kellie Lloyd, homeowners of 3748 Sachem, the property immediately east of the proposed structure. Mr. Godbey introduced Rick Nichols a professional surveyor from McGill Smith and Punshon, and Mr. Dan Lloyd.

*Mr. Nichols* stated his office was retained by Mr. Godbey to do a survey of existing site conditions. He presented three graphic representations of the view corridor from 3748 Sachem, one illustrating the existing view corridor as viewed from the west side of the residence, and two showing the maximum view lost with a 24' and 41' setback from the same perspective. Mr. Nichols explained that in similar situations, they raised helium balloons to show the location of the proposed structure and took photographs to show the impact of the proposed development; however, they were denied permission to enter the property.

Mr. Godbey explained that the diagrams illustrate views from along the west side of the Lloyd's home. The points at which the views end are where a house and hillside block it. Mr. Senhauser observed that the ailanthus trees obstruct the view of the river, as well as other views. Mr. Godbey replied that the trees are only leafed five months out of the year and would not last as long as the proposed structure. He contended that they have an easement that would allow them to cut the trees down. He acknowledged that even though his clients value their view, they had not cut down the trees since they have only owned the property since May, and currently were not permitted on the property. He added that his clients' view is not just of the river, but also of autumn trees and night lights. He suggested that defining a view may be subjective; however, his clients' predecessors must have defined a view as anything they could see from their property, given the easement they drafted. Mr. Godbey acknowledged that the determination of

whether the view easement was still binding may have to be resolved in court, but suggested the Board consider the drafting of the easement and its subsequent modifications as evidence of the importance the view had with the homeowner.

Mr. Godbey reminded the Board that there were 70 concerned individuals who signed a petition objecting to the construction. Mr. Godbey suggested that Cincinnati City Council recognized the residents' concern for their hillsides when they adopted legislation establishing the EQ-HS districts. The Board should therefore consider the EQ-HS No. 5 specific guidelines that stipulate that buildings should be planned and designed to relate well to other buildings and to be harmonious with other buildings on the hillside environment, and that they should be built to respect views from other buildings.

In regard to setback issues, Mr. Godbey stated the Board must consider that the Columbia-Tusculum Historic District guidelines indicate that new structures should be setback similar to adjacent buildings and where applicable, they should be located with respect to views and hillside constraints. Mr. Godbey contended that the structures that should be used for reference are the two directly adjacent to the proposed residence that are setback 26.3' and 42' from the property line. The resultant average suggests a setback of 34'. Mr. Godbey said that in referring to the easement of record, one would establish a setback of 42'. He added they have no issue with variances for the backyard or height, since the setback from the front will determine how much of the view is obstructed.

In terms of mass, Mr. Godbey stated the issue is whether the size and mass of the structure is in keeping with the neighborhood, and the fact that the structure had been reduced in size by 19% is irrelevant.

Mr. Lloyd responded to questions from the Board clarifying views from his property. Mr. Nichols added that the reason he drew a sight line from the rear corner of the house is because that is how the view easement reads.

In reply to the Board questioning what Mr. Godbey is specifically requesting today, Mr. Godbey stated he is asking that the COA be denied because the guidelines are not being followed with respect to the views of neighboring properties and the size and mass of the proposed structure. He stated his clients do not contend there should be no obstruction. He admitted he was not qualified to give an opinion as to what specific setback would be acceptable, although he believed the setback would have to be more than 21' or 24'. He suggested that if there is any confusion by the Board regarding how much of the view would be obstructed, they allow the applicant time to obtain a professional survey or allow his client access to the property to enable their surveyor to take photographs.

*John Wilson* signed the list requesting to address the Board, but was not present.

*Carroll Roberts*, 3749 Sachem Avenue, stated that he lives across the street from the proposed structure and has views from all the windows of his house. He pointed out that his view includes looking into the wooded lot, which will be replaced with the proposed residence. He emphasized that the trees are a view.

*Mrs. Stamp*, 3734 Sachem Avenue, declined the opportunity to address the Board.

*Bill Scott*, 3752 Sachem, questioned if the building would be built as designed if a compromise were reached regarding the easement. He stated the building was not consistent with the size of the lot and asserted they were still comparing the proposed structure with the inappropriate newer construction in the area. Mr. Scott agreed that a

geotechnical report should be obtained before any approvals are given and questioned the practicability of the stone retaining wall plan. He contended that the large foyer, which is more commercial than residential, is indicative of the inappropriate size of the building, and questioned the size and massing in relation to the overall spirit of the neighborhood. Mr. Scott commented that the staff report is ambiguous.

In response to Mr. Burke and Mr. Stamp, Mr. Schroer pointed out that his client is not dodging the requirement of a geotechnical report, and in fact, worked with Mr. Briggs, who reviews EQ-HS applications. The report will be submitted as required in the normal course of the permitting process, at which time, Mr. Burke and Mr. Stamp may present their issues to B&I. Contrary to Mr. Stamp's assertion, the drainage plan is different than as submitted at the August 25 meeting. There is a larger basin in the back of the lot to collect water, there are larger and more pronounced drainage swales, and there is a gravel drainage basin at the bottom of the site. Mr. Schroer stated that the drainage plan will be thoroughly reviewed by MSD as part of the normal permitting process.

In response to Mr. Godbey and his clients, Mr. Schroer stated that the applicant worked with staff in considering zoning and historic district requirements in determining an appropriate setback, which would be consistent with other residences. He reiterated that they would be willing to set the residence back another 3', given his previous conditions. In addition, his firm researched records to determine if there was a view easement on Mr. Garber's property and determined that one does not exist.

Mr. Garber and Mr. Rings responded to questions from the Board regarding drainage. They confirmed that the plan is to route the stormwater drainage into the catch basin, which is connected to a City sewer. Mr. Rings acknowledged that currently water sheet drains across the lot and there is additional water that originates from Alms Park, which crosses the Lloyd's property onto theirs. Since they would no longer have a surface to absorb the water running across, they will capture the runoff in a catch basin and perforated pipe at the building foundation and pipe it to the public sewer. When examining the site with Mr. Johns from MSD, he indicated the preliminary plan was completely adequate.

Ms. Sullebarger acknowledged the applicant's efforts to deal with setbacks, accommodate views, and reduce the size of the proposed residence. The Board agreed that while geotechnical and drainage issues are important, they are not insurmountable. They concluded that the primary concern is that the scale and massing of the proposed structure is not compatible with the district. Mr. Senhauser explained that scale is not a function of size. Depth is only a concern in regard to meeting underlying zoning. The issue is more of what is the scale of the mass and how that mass has been articulated to diminish its scale into something that is more domestic. He pointed out that houses in the district which are obviously large in terms of bulk, do not appear large because there was a conscious attempt through articulation to break the scale down, by use of tower, terraces, steps, porches, etc.

Ms. Sullebarger also pointed out that the design departs from the historic houses in the neighborhood in that there is not a visible pedestrian entrance on the main façade.

Mr. Garber acknowledged the Board's concern with the scale and was amenable to having the application tabled to allow him time to refine the design. Mr. Senhauser explained that the applicant may work with staff to reconcile elements of concern outside

of a public meeting; however, the process would remain public. Respect for views, and geotechnical and stormwater issues would continue to be addressed.

**BOARD ACTION**

The Board voted unanimously (motion by Sullebarger, second by Spraul-Schmidt) to table the item to allow the applicant time to refine his design.

**APPROVAL OF REPLACEMENT WINDOW AND DOOR PRODUCTS**

Urban Conservator Forwood presented the staff report for this request for approval to adopt a list of window and door products as pre-approved for use in the City's historic districts and landmarks. Mr. Forwood stated that over the past several months, the Board met in two small groups to review window and door brochures that were received by the Historic Conservation Office from local suppliers.

The list presented specifies products both groups agreed upon as being appropriate for use in any historic district. There is a large number of brochures that will require additional Board review.

The Board recommended that staff be more specific in identifying what products have been approved and remove any reference to a local supplier. Additionally, the language of the recommendations should refer to accepting the pre-approved list of both products and manufacturers.

**OTHER BUSINESS**

Urban Conservator Forwood stated that Ms. Clement resigned from the Historic Conservation Board. An urban designer/planner is needed to fill the vacancy.

**ADJOURNMENT**

As there were no other items for consideration by the Board, the meeting adjourned.

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William L. Forwood  
Urban Conservator

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John C. Senhauser  
Chairman

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Date